

NAJAM, Judge

STATEMENT OF THE CASE

Philip E. Mannebach, pro se, appeals from the trial court's denial of his motion to issue a new abstract of judgment. He presents a single issue for review, namely, whether the trial court erred when it denied his motion.

We affirm.

FACTS AND PROCEDURAL HISTORY

On April 8, 2003, Mannebach pleaded guilty pursuant to a plea agreement to Dealing in a Schedule II Controlled Substance, as a Class B felony. The trial court sentenced Mannebach to seven years executed, to run concurrent with the sentence imposed in another case, for a total executed sentence of eleven years. On February 25, 2005, Mannebach filed a pro se motion for credit time under Indiana Code Section 35-50-6-3.3. In support of his motion, Mannebach tendered documentation to show that he had successfully completed an anger management course and a course from the Emergency Management Institute Emergency Operations Center in Community Preparedness, Response, and Recovery. The trial court granted the motion for credit time without a hearing.

On June 14, 2005, Mannebach filed a motion asking the trial court to issue a new abstract of judgment and to forward a copy of the new abstract to the Plainfield Correctional Facility. The trial court summarily denied that motion on June 27, 2005. Mannebach then filed a motion for reconsideration to issue an amended abstract of judgment or for clarification of the order to grant credit time. The State responded in opposition to Mannebach's "motion for modification of sentence." Appellant's App. at

34. The trial court denied Mannebach's "Motion for Modification of Sentence" on September 2, 2005. This appeal ensued.

DISCUSSION AND DECISION

Mannebach contends that the trial court erred when it "failed to issue a new abstract of judgment in accordance with its own order" granting the motion for credit time. The State argues that Mannebach has not shown that the Department of Correction ("DOC") has not credited him with credit time pursuant to the trial court's order on his motion for credit time. We must agree with the State.

Pro se litigants are held to the same standard as trained legal counsel and are required to follow procedural rules. Evans v. State, 809 N.E.2d 338, 344 (Ind. Ct. App. 2005), trans. denied. It is an appellant's duty to provide a record that reflects the error alleged. Williams v. State, 690 N.E.2d 162, 176 (Ind. 1987). To the extent the record is inadequate, it results in waiver of the issue. Id.

Indiana Code Section 35-50-6-3.3(b) provides, in relevant part, as follows:

[A] person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:
 - (A) A certificate of completion of a vocational education program approved by the department of correction.

* * *

- (C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

The amount of time that may be awarded is based on the type of course work completed.

Thus, an inmate may earn, in relevant part:

- (5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.

* * *

- (7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction. . . .

Ind. Code § 35-50-6-3.3(d).

Here, Mannebach filed a motion for credit time based on his successful completion of a rescue and response course and an anger management course. The record before us shows that the trial court granted the motion. But Mannebach does not cite to, nor have we found, anything in the record to show that the DOC has not granted him credit time based on the trial court's order. As such, he has waived the issue for appellate review. See Ind. Appellate Rule 46(A)(8). Waiver notwithstanding, we address the merits of Mannebach's appeal.

Although the trial court granted that motion, neither Mannebach's motion nor the trial court's order determined the amount of credit time to be awarded. The courses Mannebach completed fall under Indiana Code Section 35-50-6-3.3(d)(5) and (7), which provide that the maximum amount of time that could have been awarded was six months. Mannebach subsequently requested six months' credit time in his motion to issue a new

abstract of judgment. But the determination of the amount of credit time to be awarded for the particular courses that Mannebach completed is left to the DOC's discretion. See Ind. Code § 35-50-6-3.3(d)(5), (7). Thus, the trial court had no authority to issue a new abstract of judgment awarding six months of credit time.

Moreover, Mannebach cites to Indiana Code Section 35-38-3-2(b)(4) and Hatchett v. State, 794 N.E.2d 544 (Ind. Ct. App. 2003), in support of his contention that the trial court was required to issue a new abstract of judgment after it granted his motion for credit time. But our supreme court

has construed the word “judgment” in [Indiana Code Section 35-38-3-2(b)] to refer to the phrase “judgment of conviction” in [Indiana Code Section 35-38-3-2(a)] and thus to require the inclusion of designated information only in the judgment of conviction, a copy of which must be provided by the trial court to the Department [of Correction] as receiving authority. To the extent they hold otherwise, [Hatchett v. State, 794 N.E.2d 544 (Ind. Ct. App. 2003), and Risner v. Indiana Parole Board, 779 N.E.2d 49, (Ind. Ct. App. 2002)], are overruled.

Robinson v. State, 805 N.E.2d 783, 794 (Ind. 2004). The court noted further that “[i]t is the court’s judgment of conviction and not the abstract of judgment that is the official trial court record and which thereafter is the controlling document.” Id. Thus, the trial court did not err when it refused to issue a new abstract of judgment because a new abstract of judgment would not have aided Mannebach in receiving an adjustment to his sentence based on the grant of his request for credit time.¹

¹ Although not necessary to our disposition of this case, we note here that the record is somewhat confusing as to the treatment by the trial court and the State of Mannebach’s Motion for Reconsideration to Issue Amended Abstract of Judgment/Clarification of Order to Grant Credit Time. The State filed State’s Response to Defendant’s Motion for Modification of Sentence, and the trial court’s order on Mannebach’s motion for reconsideration denied “defendant’s Motion for Modification.” Appellant’s App. at 35. We presume that Mannebach’s request for the specified term of six months’ credit time is the “modification” referred to by the State and the trial court.

Affirmed.

MAY, J., and MATHIAS, J., concur.